

THE GOVERNMENT ACCOMMODATION ORDINANCE, 1963

No. 37 of 1963

Date of Assent: 30th November, 1963

Date of Commencement: 3rd December, 1963

ARRANGEMENT OF SECTIONS

Section

- 1—Short title.
- 2—Interpretation.
- 3—Minister may direct procuring accommodation.
- 4—Action by Commissioner to procure accommodation.
- 5—Occupation of accommodation.
- 6—Provision of services.
- 7—Payment of compensation.
- 8—Reference to the Supreme Court.
- 9—Relinquishment of accommodation.
- 10—Restoration of accommodation.
- 11—Bar on actions for breach of agreement.
- 12—Inspection.
- 13—Police assistance.
- 14—Obstruction of occupants.
- 15—Service of notices.
- 16—Penalty.
- 17—Limitation of occupation.
- 18—Rules.

An Ordinance to empower the Government to procure temporarily the occupation of accommodation for the purposes of the Government

ENACTED by the Central Legislature of Kenya, as follows:—

1. This Ordinance may be cited as the Government Accommodation Ordinance, 1963.

Short title.

2. In this Ordinance—

Interpretation

“accommodation” means a dwelling house, a flat or a room in a hotel, and includes in each case all furniture, furnishings, fittings, bedding, china, glass, cutlery and other effects which are normally used in the course of the occupation of the accommodation;

"the Commissioner" means the Commissioner of Lands or any person authorized by him in writing to perform his duties or exercise his powers under this Ordinance;

"dwelling house" includes the curtilage thereof and all gardens and grounds enjoyed therewith, and any guest-house or outbuildings belonging thereto;

"hotel" means any establishment intended for the reception of travellers or visitors who may choose to stay therein and carried on with a view to profit or gain, but does not include any such establishment which has not accommodation for at least six guests;

"manager" in relation to a hotel means the person responsible for the management of the hotel, whether he is the owner or tenant thereof or not;

"services" includes attendance, the cleaning and preparation of rooms, the provision of heating, lighting, air conditioning, the supply of hot water, the provision of meals and refreshments and any other privilege or facility connected with the occupancy of accommodation.

3. Where the Minister is satisfied that the temporary occupation of any accommodation is required for the purposes of the Government, and that—

(a) the occupation of the accommodation is necessary in the interests of the utilization of that accommodation in such manner as to promote the public benefit; and

(b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the accommodation,

and so certifies to the Commissioner, he may direct the Commissioner to procure the occupation of that accommodation under this Ordinance for such period as is so necessary.

4. (1) Where the Commissioner receives a direction under section 3 of this Ordinance, he shall serve on the manager in the case of a hotel; and on the occupier in the case of a dwelling house or a flat, a notice in the prescribed form that he has been directed to procure compulsorily the occupation of the accommodation under this Ordinance for the period for which he has been directed by the Minister to procure it.

Minister may
direct procuring
accommodation.

Action by
Commissioner
to procure
accommodation.

(2) It shall be the duty of every manager and of every occupier who has been served with a notice under subsection (1) of this section to inform every person who to his knowledge owns an interest in the accommodation of the contents of the notice.

(3) After the expiration of seven days after service of notices under subsection (1) of this section, the Commissioner may require the manager in the case of a hotel, and any persons in occupation of the accommodation, to give up possession to him, and may take possession accordingly.

(4) Any person who, being required to give possession of any accommodation under subsection (3) of this section fails so to give up possession shall be guilty of an offence.

5. (1) After he has taken possession of accommodation under section 4 of this Ordinance, the Commissioner may install such persons in the accommodation as the Minister, having regard to the purpose for which the accommodation was procured, may direct, and such persons shall be entitled to occupy the accommodation in which they have been installed, without any hindrance by the persons interested in the accommodation, until the Minister otherwise directs.

Occupation of
accommodation.

(2) Where the accommodation is in a hotel the occupant shall be entitled, for himself and his visitors, not only to occupy the accommodation in which he has been installed, but also to use all the public rooms, passages, stairs, offices and other parts of the hotel, and all gardens, means of access and facilities, which guests at the hotel are normally allowed to use.

6. (1) Where any services are normally provided in a hotel in relation to any accommodation or to the occupants thereof, and occupation of that accommodation is procured under this Ordinance, the manager of the hotel shall take all reasonable steps to ensure that those services are provided in relation to that accommodation and to the occupants thereof for as long as the accommodation remains in such occupation, unless the Commissioner or, in the case of any particular occupant, the occupant, otherwise directs:

Provision of
services.

Provided that the manager may, at any time after the commencement of the occupation, give to the Commissioner

one month's notice in writing of his intention to discontinue those services, and on the expiration of that notice he may lawfully discontinue those services.

(2) Any person who, being the manager of a hotel, contravenes subsection (1) of this section, shall be guilty of an offence.

Payment of
compensation.

7. (1) Where the occupation of accommodation is procured compulsorily under this ^{Act} Ordinance, full compensation shall be paid promptly to all persons who own an interest in the accommodation.

(2) Compensation shall be paid, where the accommodation is in a hotel, in the form of payment for the accommodation and the services provided at the regular tariff charged therefor by the management, together with any further sum which may be necessary to secure compliance with subsection (1) of this section.

(3) The Commissioner shall take all necessary steps as soon as practicable to seek agreement with the persons interested in the compensation payable under this section, and shall arrange for the prompt payment to them of any compensation so agreed.

Reference to
the Supreme
Court.

8. (1) If the persons interested and the Commissioner are unable to agree the amount of compensation which should be paid for the accommodation, the Commissioner shall without delay refer the matter to the ^{Act} Supreme Court for determination, or, if the parties so agree, shall arrange for the difference to be determined by arbitration under the Arbitration Ordinance.

Cap. 49.

(2) If the Commissioner is in doubt as to the persons who are interested in the accommodation, or as to the extent or nature of their respective interests, he may refer the matter to the ^{Act} Supreme Court for determination.

9. As soon as the need for the accommodation, in terms of section 3 of this ^{Act} Ordinance, has ceased, the Commissioner shall arrange for the vacation of the accommodation and for the handing over of possession thereof to the persons interested.

10. Except in so far as allowance therefor has been made in the calculation of compensation paid under section 8 of this ^{Act} Ordinance, the Commissioner shall arrange for any damage

Relinquish-
ment of
accommodation.

Restoration of
accommodation.

which has been occasioned to the accommodation by reason of the occupation to be made good or, at his option, shall pay compensation therefor, and the foregoing provisions of this ^{Act} Ordinance concerning the agreement or determination of compensation shall apply to the calculation of such compensation, so far as they are applicable.

11. Where the occupation of any accommodation has been procured under this ^{Act} Ordinance, no action shall be brought by which any person interested in or concerned with the accommodation is charged with the breach or non-observance with any agreement where the fulfilment or observance of that agreement is prevented by such procurement.

Bar on actions for breach of agreement.

12. The Commissioner may—

Inspection.

(a) at any time, after serving on the owner or occupier not less than forty-eight hours' notice of his intention so to do, enter upon any accommodation with a view to seeing whether it is suitable to the needs of the Government in connexion with the purposes of this ^{Act} Ordinance; or

(b) at any time enter upon any accommodation in respect of which a notice has been served under section 4 of this ^{Act} Ordinance (whether it has been taken possession of or occupied or not), for the purpose of inspecting ^{Act} it in connexion with the purposes of this Ordinance.

13. If the Commissioner is opposed or hindered in taking possession of any accommodation under this ^{Act} Ordinance, he may apply to a police officer for assistance in taking possession, and the police officer shall thereupon take such steps as he may consider necessary to put the Commissioner in possession of the accommodation.

Police assistance.

14. Any person who, without reasonable cause, hinders or obstructs any person who is occupying any accommodation, the occupation of which has been procured under this Ordinance, in such a way as is calculated to interfere with his enjoyment of the accommodation, or of any right annexed thereto, or of any services provided in relation to the accommodation or to the occupant, shall be guilty of an offence.

Obstruction of occupants.

15. A notice which may be served under this Ordinance shall be sufficiently served on a person if it is—

Service of notices.

- (a) delivered to that person personally; or
- (b) sent by registered post addressed to that person's last known address; or
- (c) if the person is a corporation or association of persons, by delivering it personally to any secretary, director or other officer thereof or any person concerned or acting in the management thereof, or by leaving it at the place of business of the corporation or association of persons, addressed to the corporation or association of persons, or by sending it by registered post addressed to the corporation or association of persons at its last known address.

Penalty.

16. Any person who is guilty of an offence under this Ordinance shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Limitation of
occupation.

17. Accommodation which consists of a dwelling house or a flat shall not be capable of occupation under the powers conferred by this Ordinance after the 31st December 1963.

Rules.

18. The Minister may make rules generally for the better carrying out of the purposes and provisions of this Ordinance.